

HOUSE BILL No. 1283

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-11; IC 3-14-2-31.

Synopsis: Absentee voting. Allows an individual to vote by mail if the individual is qualified to vote in person and will be unable for any reason to vote in person on election day. Provides that a person who takes certain actions with respect to an absentee ballot application commits a Class C felony.

Effective: July 1, 2004.

Aguilera

January 15, 2004, read first time and referred to Committee on Elections and Apportionment.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1283

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-11-4-1, AS AMENDED BY P.L.126-2002,
2 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 1. (a) A voter who is otherwise qualified to vote
4 in person is entitled to vote by absentee ballot. Except as otherwise
5 provided in this article, a voter voting by absentee ballot must vote in
6 the office of the circuit court clerk or at a satellite office established
7 under IC 3-11-10-26.3.

8 (b) A county election board, by unanimous vote of its entire
9 membership, may authorize a person ~~who is otherwise qualified to vote~~
10 ~~in person~~ to vote by absentee ballot if:

11 **(1) the person is otherwise qualified to vote in person; and**

12 **(2) the board determines that the person ~~has been hospitalized or~~**
13 **~~suffered an injury~~ has reason to believe that the person will be**
14 **unable for any reason to vote in person on election day**
15 **following the final date and hour for applying for an absentee**
16 **ballot. ~~that would prevent the person from voting in person at the~~**
17 **polls.**



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(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) (c) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 2. IC 3-11-4-18, AS AMENDED BY P.L.209-2003, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) If a voter satisfies any of the following, has reason to believe that the voter will be unable for any reason to vote in person on election day, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(1) The voter will be absent from the county on election day.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) This subsection applies after December 31, 2003. If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall

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include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) The ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) The ballot described in subsection (d):

(1) must be mailed:

- (A) on the day of the receipt of the voter's application; or
- (B) not more than five (5) days after the date of delivery of the ballots under section 13(b) of this chapter;

whichever is later; and

(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ballots for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 3. IC 3-11-10-24, AS AMENDED BY P.L.126-2002, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) Except as provided in subsection (b), a voter who ~~satisfies any of the following~~ **has reason to believe that the voter will be unable for any reason to vote in person on election day** is entitled to vote by mail.

~~(1) The voter will be absent from the county on election day.~~

~~(2) The voter will be absent from the precinct of the voter's~~

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residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 4. IC 3-14-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 31. A person who knowingly or intentionally does any of the following commits a Class C felony:**

(1) Completes an absentee ballot application for a voter, if the person is not:

(A) the voter; or

(B) authorized under this title to assist the voter in completing the voter's absentee ballot application.

(2) Assists a voter in completing the voter's absentee ballot application, if the person is not authorized under this title to assist the voter in completing the voter's absentee ballot

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- 1 application.
2 (3) Signs an absentee ballot application for a voter, if the
3 person is not authorized under this title to sign the voter's
4 absentee ballot application.
5 (4) Faxes, mails, or hand delivers a completed absentee ballot
6 application to the circuit court clerk or the office of the board
7 of elections and registration (whichever is applicable), if the
8 person is not authorized under this title to fax, mail, or hand
9 deliver the application to the clerk or office.
10 (5) Completes an absentee ballot application and falsely states
11 information to entitle the voter to vote an absentee ballot by
12 mail under IC 3-11-4-18 and IC 3-11-10-24.

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